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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/629,183

Filing Date: July 29, 2003

Appellant(s): MARSH, RONALD

Austen P. Zuege
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 19, 2008 appealing from the Office action mailed October 20, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2004/0080430	Videtich	4-2004
6,297,766	Koeller	10-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 19, 43 and 48 are rejected under 35 U.S.C. 102(e) as being anticipated by Videtich, 2004/0080430.

Videtich discloses a radio receiver for receiving emergency event data(124); a GPS receiver for determining a location of the portable alert system(140); a computer processor disposed within the portable alert system having control software for processing the emergency event data and an input from the GPS to provide an output to a display indicating a position of the portable alert system and a position of an emergency, wherein the computer processor further processes the input from the GPS to automatically program the radio receiver to receive only an emergency data broadcast signal associated with the location of the portable alert system in paragraphs 17-25; the emergency data broadcast data signal is associated with a specified broadcast frequency is inherent since communication is associated with a specific frequency so that the receiver can receive it; having both a satellite receiver (radio broadcast) and another transmission means at the same time in paragraphs 12, 20, and 21; and the computer processor utilizing the control software to simultaneously process

the emergency event data from the radio receiver and the digital data from the satellite receiver in paragraphs 16-25; and a cellular phone for receiving digital data in paragraph 20.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 12, 42, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Videtich, 2004/0080430.

Videtich discloses a radio receiver for receiving emergency event data(124); a GPS receiver for determining a location of the portable alert system(140); a computer processor disposed within the portable alert system having control software for processing the emergency event data and an input from the GPS to provide an output to a display indicating a position of the portable alert system and a position of an emergency, wherein the computer processor further processes the input from the GPS to automatically program the radio receiver to receive only an emergency data broadcast signal associated with the location of the portable alert system in paragraphs 17-25; the emergency data broadcast data signal is associated with a specified broadcast frequency is inherent since communication is associated with a specific frequency so that the receiver can receive it; having both a satellite receiver (radio broadcast) and another transmission means at the same time in paragraphs 12, 20, and 21; and the computer processor utilizing the control software to simultaneously process

the emergency event data from the radio receiver and the digital data from the satellite receiver in paragraphs 16-25; and a cellular phone for receiving digital data in paragraph 20. Videlich does not disclose a satellite receiver for receiving the digital data. Official notice is taken that it is well known in the art to substitute a satellite phone with a cellular phone. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a satellite phone instead of a cellular phone connection because satellite phones have a larger service area, which would be beneficial when traveling in remote areas.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Videlich, 2004/0080430, in view of Koeller, 6297766.

Videlich discloses the limitations as set forth above. Videlich does not disclose the digital data is digital radar data. Koeller teaches the data is digital radar data on lines 16-25, on column 4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the digital radar data of Koeller in the invention of Videlich because it would provide a more accurate warning.

(10) Response to Argument

The arguments with respect to claim 19, 43, and 48, center around one main issue and the interpretation of the claim language. Appellant is arguing that the cited prior art of Videlich does not simultaneously process information from the radio receiver and the data from the satellite receiver. What is apparent from the arguments by Appellant, the problem with Appellant's interpretation of the claim language is that they believe that the limitations current in the claims limit the invention to processing data

from the radio receiver and satellite receiver when this data is being received at the same time. More simply put, Appellants view the “simultaneous” action as being the reception of the two sets of data by the radio receiver and the cellular/satellite receiver. However, the claims as currently written do not require this at all. The claims only require that the data that is received by the computer processor from both the radio receiver and the cellular/satellite receiver be processed at the same time. Again, the simple way to say this is that the simultaneous action in the claims is two sets of data being processed at the same time. It is irrelevant when the data is received; the only thing of importance is they are processed at the same time. The limitation of processing data is very broad and is interpreted to be recited by Videtich when he talks about getting additional information beyond what is available from the satellite by using the telematic link in paragraph 21. This information is used along with the information already received by the cellular/satellite receiver to determine what to output to the user. So the data is processed simultaneously even though it may not be received simultaneously. Paragraphs 22 through 27 of Videtich go into further details about the operation of the device and the two receivers. While this position may not have been clearly stated in the Advisory Action, this is the basis for the rejection. The Advisory action should have made it clearer that it was the simultaneous processing of two transmissions received by both a radio receiver and cellular/satellite receiver that is not in the claims.

The secondary arguments with respect to claims 19, 43, and 48 is the position by Appellant that Videtich does not disclose providing an output to a display indicating the

location of the portable alert system. This position is not supported by the disclosure in paragraph 19, 22, 25, and 26 of Videlich. In paragraph 19 Videlich discloses providing vehicle position relative to severe weather. In paragraph 22, Videlich discloses providing an all clear message to the display to indicate that the location of the system is outside any severe weather area. Also, claim 5 of Videlich discloses indicating the location by indicating when the unit enters an area of severe weather. This indication is an indication of location. Appellant seems to be narrowly interpreting the output limitation of "provide an output to a display indicating a position of the portable alert system and a position of an emergency" to require a map being drawn. But clearly, an indication of position can be made in much simpler ways like how Videlich operates.

As per claims 12, 42, and 47, Appellants rely on the same arguments as addressed above with respect to claims 19, 43, and 48, and are not convincing for the same reasons.

As per claim 16, Appellants present the same arguments as discussed above with regards to Videlich and the argument are not convincing for the same reasons as stated above. Appellant also argues that Koeller does not disclose several limitations, but Koeller was not cited for teaching the limitations that Appellant argues. Hence, the argument are not convincing and are not germane to the rejection presented. Koeller was simply provided for a teaching that digital radar data is known and providing it to portable devices is known to be desirable.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Brian J. Broadhead/

Examiner, 3664

Conferees:

Khoi H. Tran /KHT/ /Khoi H. Tran/

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